

104TH CONGRESS
1ST SESSION

S. 1085

To prohibit discrimination and preferential treatment on the basis of race, color, national origin, or sex with respect to Federal employment, contracts, and programs, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 27 (legislative day, JULY 10), 1995

Mr. DOLE (for himself, Mr. McCONNELL, Mr. SIMPSON, Mr. KYL, Mr. BROWN, Mr. NICKLES, Mr. GRASSLEY, and Mr. SHELBY) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To prohibit discrimination and preferential treatment on the basis of race, color, national origin, or sex with respect to Federal employment, contracts, and programs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Equal Opportunity Act
5 of 1995”.

1 **SEC. 2. PROHIBITION AGAINST DISCRIMINATION AND**
2 **PREFERENTIAL TREATMENT.**

3 Notwithstanding any other provision of law, neither
4 the Federal Government nor any officer, employee, or de-
5 partment or agency of the Federal Government—

6 (1) may intentionally discriminate against, or
7 may grant a preference to, any individual or group
8 based in whole or in part on race, color, national ori-
9 gin, or sex, in connection with—

10 (A) a Federal contract or subcontract;

11 (B) Federal employment; or

12 (C) any other federally conducted program
13 or activity;

14 (2) may require or encourage any Federal con-
15 tractor or subcontractor to intentionally discriminate
16 against, or grant a preference to, any individual or
17 group based in whole or in part on race, color, na-
18 tional origin, or sex; or

19 (3) may enter into a consent decree that re-
20 quires, authorizes, or permits any activity prohibited
21 by paragraph (1) or (2).

22 **SEC. 3. RECRUITMENT AND ENCOURAGEMENT OF BIDS.**

23 Nothing in this Act shall be construed to prohibit or
24 limit any effort by the Federal Government or any officer,
25 employee, or department or agency of the Federal Govern-
26 ment—

1 (1) to recruit qualified women or qualified mi-
2 norities into an applicant pool for Federal employ-
3 ment or to encourage businesses owned by women or
4 by minorities to bid for Federal contracts or sub-
5 contracts, if such recruitment or encouragement
6 does not involve using a numerical objective, or oth-
7 erwise granting a preference, based in whole or in
8 part on race, color, national origin, or sex, in select-
9 ing any individual or group for the relevant employ-
10 ment, contract or subcontract, benefit, opportunity,
11 or program; or

12 (2) to require or encourage any Federal con-
13 tractor or subcontractor to recruit qualified women
14 or qualified minorities into an applicant pool for em-
15 ployment or to encourage businesses owned by
16 women or by minorities to bid for Federal contracts
17 or subcontracts, if such requirement or encourage-
18 ment does not involve using a numerical objective, or
19 otherwise granting a preference, based in whole or in
20 part on race, color, national origin, or sex, in select-
21 ing any individual or group for the relevant employ-
22 ment, contract or subcontract, benefit, opportunity,
23 or program.

1 **SEC. 4. RULES OF CONSTRUCTION.**

2 (a) HISTORICALLY BLACK COLLEGES AND UNIVER-
3 SITIES.—Nothing in this Act shall be construed to prohibit
4 or limit any act that is designed to benefit an institution
5 that is a historically Black college or university on the
6 basis that the institution is a historically Black college or
7 university.

8 (b) INDIAN TRIBES.—Nothing in this Act shall be
9 construed to prohibit or limit any action taken—

10 (1) pursuant to a law enacted under the con-
11 stitutional powers of Congress relating to the Indian
12 tribes; or

13 (2) under a treaty between an Indian tribe and
14 the United States.

15 (c) BONA FIDE OCCUPATIONAL QUALIFICATION,
16 PRIVACY, AND NATIONAL SECURITY CONCERNS.—Noth-
17 ing in this Act shall be construed to prohibit or limit any
18 classification based on sex if—

19 (1) sex is a bona fide occupational qualification
20 reasonably necessary to the normal operation of the
21 Federal Government entity or Federal contractor or
22 subcontractor involved;

23 (2) the classification is designed to protect the
24 privacy of individuals; or

25 (3)(A) the occupancy of the position for which
26 the classification is made, or access to the premises

1 in or on which any part of the duties of such posi-
2 tion is performed or is to be performed, is subject
3 to any requirement imposed in the interest of the
4 national security of the United States under any se-
5 curity program in effect pursuant to or administered
6 under any Act or any Executive order of the Presi-
7 dent; or

8 (B) the classification is applied with respect to
9 a member of the Armed Forces serving on active
10 duty in a theatre of combat operations (as deter-
11 mined by the Secretary of Defense).

12 **SEC. 5. COMPLIANCE REVIEW OF POLICIES AND REGULA-**
13 **TIONS.**

14 Not later than 1 year after the date of enactment
15 of this Act, the head of each department or agency of the
16 Federal Government, in consultation with the Attorney
17 General, shall review all existing policies and regulations
18 that such department or agency head is charged with ad-
19 ministering, modify such policies and regulations to con-
20 form to the requirements of this Act, and report to the
21 Committee on the Judiciary of the House of Representa-
22 tives and the Committee on the Judiciary of the Senate
23 the results of the review and any modifications to the poli-
24 cies and regulations.

1 **SEC. 6. REMEDIES.**

2 (a) IN GENERAL.—In any action involving a violation
3 of this Act, a court may award only injunctive or equitable
4 relief (including but not limited to back pay), a reasonable
5 attorney’s fee, and costs.

6 (b) CONSTRUCTION.—Nothing in this section shall be
7 construed to affect any remedy available under any other
8 law.

9 **SEC. 7. EFFECT ON PENDING MATTERS.**

10 (a) PENDING CASES.—This Act shall not affect any
11 case pending on the date of enactment of this Act.

12 (b) PENDING CONTRACTS, SUBCONTRACTS, AND
13 CONSENT DECREES.—This Act shall not affect any con-
14 tract, subcontract, or consent decree in effect on the date
15 of enactment of this Act, including any option exercised
16 under such contract or subcontract before or after such
17 date of enactment.

18 **SEC. 8. DEFINITIONS.**

19 As used in this Act:

20 (1) FEDERAL GOVERNMENT.—The term “Fed-
21 eral Government” means the executive and legisla-
22 tive branches of the Government of the United
23 States.

24 (2) GRANT A PREFERENCE.—The term “grant
25 a preference” means use of any preferential treat-
26 ment and includes but is not limited to any use of

1 a quota, set-aside, numerical goal, timetable, or
2 other numerical objective.

3 (3) HISTORICALLY BLACK COLLEGE OR UNI-
4 VERSITY.—The term “historically Black college or
5 university” means a part B institution, as defined in
6 section 322(2) of the Higher Education Act of 1965
7 (20 U.S.C. 1061(2)).

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